



U.S. DEPARTMENT of STATE

Swaziland

Country Reports on Human Rights Practices - [2004](#)

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Swaziland is a modified traditional monarchy with executive, legislative, and limited judicial powers ultimately vested in the King (Mswati III). The King ruled according to unwritten law and custom, in conjunction with a partially elected parliament and an accompanying structure of published laws and implementing agencies. Municipal elections during the year and 2003 parliamentary elections increased representative government; however, political power continued to rest largely with the King and his circle of traditional advisors, including the Queen Mother. The judiciary was generally independent; however, the King and other government officials infringed on the judiciary's independence by attempting to influence or reverse court decisions.

Both the Umbutfo Swaziland Defense Force and the Royal Swaziland Police are responsible for external and internal security. The police are under the authority of the Prime Minister, while the Defense Force reports to the Ministry of Foreign Affairs. Some communities questioned the ability of the police to operate effectively at the community level and have formed community police. Civilian authorities maintained effective control of the security forces. Some members of the security forces and the community police committed numerous human rights abuses.

The country had a free market economy, with relatively little government intervention; its population was approximately 1.1 million. The majority of citizens were engaged in subsistence agriculture and the informal marketing of agricultural goods, although a relatively diversified industrial sector accounted for the largest component of the formal economy. Unemployment continued to grow and over 40 percent of the working age population was unemployed or underemployed. The 2003 gross domestic product growth rate was 2.2 percent. A 3-year drought and HIV/AIDS rate of approximately 40 percent had a severe negative impact on economic conditions.

The Government's human rights record was poor, and the Government continued to commit serious abuses. Citizens were not able to change their government peacefully. There were a few instances of arbitrary killings by security forces. Police used excessive force on some occasions, and police tortured and beat some suspects. Lengthy pretrial detention and police impunity were problems. The Government infringed on citizen's privacy rights. The Government continued to limit freedom of speech and of the press. The Government restricted freedom of assembly and association and prohibited political activity. The police on several occasions harassed political activists. There were some limits on freedom of movement. Legal and cultural discrimination, violence against women, and abuse of children remained problems. Trafficking in persons occurred. Some societal discrimination against mixed race and white citizens persisted. Worker rights remained limited.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no politically motivated killings by the Government or its agents; however, there were a few reports of arbitrary killings by security forces.

For example, on May 21, Mandla Mathousand Ngubeni, who was in police custody in Matsapha on suspicion of stealing money from his workplace, died after police allegedly tortured and suffocated him. Following complaints from Ngubeni's family, the Prime Minister appointed a senior magistrate to conduct an inquest into the death. The Magistrate passed her findings to the Prime Minister's Office, but they had not been made public by year's end.

On October 28, soldiers on patrol near Matsamo border crossing shot and killed two unarmed brothers who fled when the soldiers discovered they were trying to smuggle an automobile across the border. The police were investigating the incident at year's end.

On December 13, soldiers near the Lundzi border post shot and killed a suspect trying to smuggle an automobile into the country.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law does not specifically prohibit such practices, although under the Prisons Act correctional facility officers may be prosecuted if they engage in such practices; however, government officials employed them. Security forces used torture during interrogation and abused their authority by assaulting citizens and using excessive force in carrying out their duties.

There were credible reports that police beat criminal suspects and occasionally used the "tube" style of interrogation, in which police suffocate suspects through the use of a rubber tube around the face and mouth. According to media reports, police used the Kentucky method of interrogation in which the arms and legs of suspects are bent and tied together with rope or chain, and then the person is beaten.

On May 31, during a class boycott at Ndwandwe High School in Mankayana, police detained seven students for several hours and beat them. As a result, some of the students received hospital treatment. In June, a man complained in court that after his arrest for allegedly attacking a policeman, other police officers beat him severely in the groin.

There was no action taken against members of the security forces responsible for the 2003 beating of a Swaziland Federation of Trade Unions (SFTU) member or 2002 beating of a woman accused of theft.

Police also banned and forcibly dispersed demonstrations (see Section 2.b.).

Government prisons and detention centers remained overcrowded, and conditions were generally poor. The application of a decree denying bail for a variety of offenses resulted in the continued overcrowding and other unfavorable conditions in facilities where suspects were held during pretrial detention (see Section 1.d.). There were reports that torture, lack of basic hygiene, and unsafe sexual practices, including forced sexual intercourse, were spreading HIV/AIDS among the prisoners.

Women were held in separate prison facilities, and there was one juvenile detention facility in Mdtjane; however, at times children (age 3 and under) of female inmates lived with their mothers in the women's prison. Unlike in the previous year, there were no reports that male guards forced female prisoners to have sex.

The Government routinely permitted prison visits by diplomats, journalists, human rights monitors, and representatives of international organizations. During the year, the local Red Cross visited several prisons.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention; however, arbitrary arrest and lengthy pretrial detention were problems.

The police force was generally professional; however, it suffered from a lack of resources and personnel, as well as bureaucratic inefficiency. There were credible allegations that the force was susceptible to political pressure. The Government generally failed to prosecute or otherwise discipline police officers for abuses. No independent body had the authority to investigate police abuses; however, an internal complaints and discipline unit investigated reports of human rights abuses by the police but did not release these results to the public. Courts have invalidated confessions induced through physical abuse and have ruled in favor of citizens assaulted by police.

The law requires warrants for arrests, except when police observe a crime being committed or believe that a suspect might flee. Detainees may consult with a lawyer of their choice and must be charged with the violation of a statute within a reasonable time, usually 48 hours, or, in remote areas, as soon as the judicial officer appears.

Although the courts have invalidated the Non-Bailable Offenses Order the Government continued to limit the provisions for bail for crimes appearing in it. The Minister of Justice may amend the list by his own executive act. The mere charge of the underlying offense, without any evidence that the suspect was involved, was sufficient to employ the non-bailable provision. The non-bailable offense provision exacerbated ongoing judicial problems such as lengthy pretrial detention, the backlog of pending cases, and detention center overcrowding. During the year, police continued to detain suspects even though they had paid bail; however, by year's end, all suspects who had posted bail had been released. Some suspects were held in pretrial detention for periods that exceeded their sentence.

Arbitrary arrest was a problem.

There were no developments in the 2002 detention of a young woman and the grandfather of Chief Mtfuso.

Lengthy pretrial detention was common, sometimes lasting for several years. The police justify pretrial detention on the basis that they are collecting evidence of the crime and releasing the detainee would allow the person to influence witnesses.

e. Denial of Fair Public Trial

The law provides for an independent judiciary; however, the King has certain judicial powers, and government officials, including the King, the Prime Minister, the Minister of Justice and Constitutional Affairs, and the traditional governor of the royal family infringed on the judiciary's independence by attempting to influence or reverse court decisions. High Court judges resisted pressure to yield any powers to those outside the judiciary; however, the Government often ignored judgments that did not favor them. For example, the Government refused to release from detention some suspects who had paid their bail (see Section 1.d.).

On May 4, the industrial court reinstated the Clerk of Parliament, who in 2002 had been transferred to the Ministry of Agriculture and stripped of his administrative power by the Prime Minister. The Clerk resumed his duties in June.

In November, after meetings between the judges of the Court of Appeals and the Prime Minister and Minister of Justice, and the Prime Minister's public statement on September 1 that the Government would respect the Court's judgments, the judges of the Court of Appeals resumed their functions. The judges had all resigned in 2002 after the Government declared that it would disregard the Court's ruling that held that King Mswati had no authority to rule by decree until a new constitution was put in place. When the Court of Appeals was reconstituted on November 10, it immediately threatened not to hear cases as the Government had not complied with a 2002 court decision to return 200 residents evicted from 2 chiefdoms (see Section 1.f.). However, once the Minister of Justice agreed to the return of the evictees on November 11, the Court of Appeals resumed hearing cases even though the first evictee did not return until the end of November and the remaining evictees had not returned by year's end.

The case against the Director of Public Prosecutions (DPP) for obstruction of justice in connection with his involvement in a car accident several years ago was pending before the High Court at year's end. The Government charged the DPP after he brought obstruction of justice and sedition charges against the Attorney General based on his attempted coercion of the High Court judges.

Judicial powers are vested in a dual system, one based on Western law, the other based on a system of national courts that followed unwritten traditional law and custom. In treason and sedition cases, the King can circumvent the regular judiciary by appointing a special tribunal, which may adopt rules and procedures different from those applied in the High Court; however, this power has not been used since 1987.

The Western-type judiciary consists of the Court of Appeals (composed entirely of expatriate, usually South African, judges), the High Court, and magistrate courts, all of which are claimed to be independent of executive and military control; however, the November events regarding the eviction case showed that the Royal family still does not always respect the Court of Appeals' rulings. The evictees were permitted to return not because of the court's ruling, but rather because they finally agreed to accept the King's (by then deceased) representative as chief. The expatriate judges serve on 2-year renewable contracts; local judges serve indefinitely with good behavior. In magistrate courts, defendants are entitled to counsel at their own expense. Court-appointed counsel is provided in capital cases or when difficult points of law are at issue. There is no trial by jury. There are well-defined appeal procedures up to the Court of Appeals, the highest judicial body. A lack of an independent court budget, lack of trained manpower, inadequate levels of salary remuneration, and poor casework management remained problems for the judiciary.

Most citizens who encountered the legal system did so through the traditional courts. The authorities may bring residents of the country to these courts for minor offenses and violations of traditional law and custom. In traditional courts, defendants are not permitted formal legal counsel but can speak on their own behalf, call witnesses, and are assisted by informal advisors. Sentences are subject to review by traditional authorities and can be appealed to the High Court and the Court of Appeals. The public prosecutor legally has the authority to determine which court should hear a case, but in practice the police usually made the determination. Accused persons have the right to transfer their cases from the traditional courts. Prolonged delays in trials were common.

The King appoints traditional chiefs. Chiefs' courts have limited civil and criminal jurisdiction and are authorized to impose fines up to approximately \$50 (300 emalangeni), and prison sentences of up to 3 months; however, chiefs' courts only were empowered to administer customary law "insofar as it is not repugnant to natural justice or morality," or inconsistent with the provisions of any law in force. Accused persons are required to appear in person without representation by a legal practitioner or advocate, but the defendant may appeal the court's decision.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law requires a warrant from a magistrate before police may search homes or other premises; however, at times police did not respect this requirement. Police officers with the rank of sub-inspector or higher have the authority to conduct a search without a warrant if they believe that evidence might be lost through the delay in obtaining a warrant. Searches without warrants

occurred. For example, in February, police officers stopped and searched the vehicles of approximately 30 members of the People's United Democratic Movement (PUDEMO) who were returning from a Women's League Congress in South Africa. The police confiscated some documents.

There were instances of physical surveillance by the police on members of labor unions and banned political groups. For example, on May 1, police and military used video cameras to record meetings of union members.

Despite an order issued by the Court of Appeals in 2002, the Government continued to block the return of residents of kaMkhweli and Macetjeni, who were evicted for refusing to transfer their allegiance from their traditional chiefs to Prince Maguga, a brother of the King, who claimed authority over the two areas in 2002. On three occasions during the year, police prevented Macetjeni evictee Madeli Fakudze, brother to one of the deposed chiefs, from returning to his home. Following the Justice Minister's statement on November 11 that the evictees were free to return, Madeli Kakudze went to his home. Police re-evicted him 2 days later. Fakudze appealed to the King, who ordered that Fakudze be allowed to return to his home. Fakudze did so in late November. The Government said it would allow all 200 evictees to return in phases; by year's end, only 1 evictee had returned.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and the Press

The law does not provide for freedom of speech or of the press, and the Government limited these rights in practice. The Government also discouraged critical news coverage of the royal family, and journalists practiced self-censorship in regard to the immediate royal family and national security policy.

There was one daily independent newspaper and one daily newspaper owned by Tibiyo Taka Ngwane, the King's investment company. Both newspapers covered a wide variety of sensitive topics and criticized government corruption, inefficiency, and waste; however, the Government used the same media to rebut such allegations. With some exceptions, the Government continued to withhold its advertising from the independently owned daily newspaper.

There were two government-owned radio stations and one independent radio station, which broadcast religious programs. There was a privately owned television station, which was officially independent; however, the owner's mother is the daughter of the previous king, Sobhuza, and its reporting favored the status quo. The government-owned television and radio stations, the most influential media in reaching the public, generally followed official policy positions. Government broadcast facilities retransmitted Voice of America and British Broadcasting Corporation news programs in their entirety.

Private companies and church groups owned several newsletters and magazines.

The editors and owners of the largest daily newspaper, the Times of Swaziland (TOS), have on several occasions been summoned to one of the royal residences where they were required to explain news articles or editorials deemed to be disrespectful of the monarchy. These visits have usually been followed by retractions or apologies from the TOS. In July, a TOS reporter was physically attacked by a senator and her husband after the reporter implicated her in an extramarital affair. The senator's husband detained the reporter in his car and then released him after the reporter agreed not to follow up on the story.

The Government did not restrict access to the Internet.

The practice of self-censorship and the prohibition on political gatherings restricted academic freedom by limiting academic meetings, writings, and discussion on political topics.

b. Freedom of Peaceful Assembly and Association

The law does not provide for freedom of assembly, and the Government restricted this right in practice. A decree prohibits meetings of a political nature, processions, or demonstrations in any public place without the consent of the Commissioner of Police. The authorities routinely withheld permission to hold such meetings.

During the year, the police forcibly dispersed several demonstrations and meetings. On September 23, during the celebration of the 21st anniversary of the PUDEMO, police detained six PUDEMO members for 3 hours and beat six others, who were treated at a nearby clinic for their injuries. On October 16, in Macetjeni, the Operational Support Service, a special police unit, used stun grenades to disperse a crowd of 200 who were attending a prayer service organized to honor Macetjeni residents evicted in 2002 (see Section 1.f.).

During the year, police harassed, arrested, and disrupted the meetings of prodemocracy activists and members of banned political parties. On April 17, police halted a procession in support of human rights in Big Bend, organized by the Swaziland Agricultural Plantations Union and the National Constitutional Assembly, a nongovernmental organization (NGO) that advocates separation of powers and observance of human rights. On June 24, police arrested and questioned a leader of the banned Ngwane National Liberatory Congress Women's Wing, and seized protest signs displayed inside the Bosco Skills Center in

Manzini during ceremonies in observance of African Child Day; she was released later that day.

In August, police used tear gas to disperse a Swaziland Youth Conference rally.

Unlike the previous year, the police did not ban or disperse any meetings held by workers' unions.

There was no action taken against police officers responsible for forcibly dispersing demonstrations in 2003 or 2002.

The law does not provide for freedom of association, and the Government restricted this right in practice. Political parties were banned, although political organizations operated without calling themselves parties (see Section 3).

c. Freedom of Religion

There is no formal legal provision for freedom of religion; however, the Government generally respected freedom of religion in practice, although authorities on occasion disrupted or cancelled prayer meetings that were considered to have political objectives.

New religious groups or churches are expected to register with the Government upon organizing in the country. There is no law describing the organizational requirements of a religious group or church. All religions were recognized unofficially. Groups were registered routinely, and there were no reports that any groups were denied registration during the year.

On September 2, in Lomahasha, three primary school children who are members of the Jehovah's Witnesses were expelled from school for refusing to pray during school assemblies.

Government permission was required for the construction of new religious buildings. Non-Christian groups sometimes experienced minor delays in obtaining permits from the Government.

For a more detailed discussion, see the [2004 International Religious Freedom Report](#).

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation,

The law does not provide for these rights, and the Government placed some limits on them in practice. Citizens may travel and work freely within the country; however, under traditional law, a married woman requires her husband's permission to apply for a passport, and an unmarried woman requires the permission of a close male relative. Nonethnic Swazis sometimes experienced lengthy processing delays when seeking passports and citizenship documents, in part due to the prejudice that mixed-race and white persons were not real citizens (see Section 5). Political dissenters often had their citizenship questioned and could experience difficulty in obtaining travel documents. The Constitutional Review Commission made a recommendation that effectively could render a child stateless should it be born to a Swazi mother and a foreign father; however, the draft constitution had not been ratified by year's end.

The law prohibits forced exile, and the Government did not use it.

The Government treated several thousand ethnic Swazis living across the border in South Africa, who were not citizens, as virtually indistinguishable from citizens and routinely granted them travel and citizenship documents.

On July 1, in an attempt to control emigration, especially the exodus of nurses seeking overseas employment, the Government blocked overseas employment agencies from obtaining or transferring foreign currency, which is necessary to make arrangements for jobs abroad. This effectively stopped citizens from being able to gain employment abroad.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. According to the UNHCR, there were an estimated 1,000 refugees in the country, the majority from central Africa and Angola.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens are not able to change their government peacefully. The King retains ultimate executive and legislative authority, and political parties are prohibited. Passage of legislation by Parliament requires the King's assent to become law, which he is not obliged to give. When Parliament is not in session, the King can legislate by decree under his residual emergency powers. The King chooses the Prime Minister and, in consultation with the Prime Minister, also chooses the Cabinet, many senior civil servants, and the heads of government offices.

According to law, 55 seats in the 65-seat House of Assembly are popularly contested, and the King appoints the remaining 10 members. In October 2003, parliamentary elections took place that commonwealth observers concluded were not free and fair and that Parliament has no real authority. Election procedures generally were carried out in an orderly fashion; however, police arrested several persons for using forged voter registration certificates and for trying to vote more than once. Alleged irregularities led to legal challenges in three constituencies. PUDEMO boycotted the elections; however, members of other organized but banned political groups participated, and three opposition members were elected to Parliament. As required by law, the elected members of the House of Assembly nominated 10 members from the public to serve in the Senate (upper house). The King appointed an additional 20 Senate members.

In March, elected Member of Parliament Marwick Khumalo was forced to relinquish his position as Speaker of the House under pressure from the King's advisors, due to personal differences with the members of the royal family.

In May 2003, the Constitutional Drafting Committee released a draft Constitution, and the Government commenced a civic education program in each administrative center (Tinkhundla) to allow citizens to comment on the draft. Because only individuals and not groups were permitted to comment on the draft constitution, many civic groups complained that the process of drafting the constitution was not inclusive. In addition, many civic groups have criticized the content of the constitution, claiming, among other things, that there is no separation of powers. Both the House of Assembly and Senate passed the Constitution but because the two sides could not agree on the final version, the King is expected to call in February 2005 to ratify a single version.

Several traditional forums existed for the expression of opinion, including community meetings, national councils, and direct dialogue with area chiefs; however, these local channels were not intended as a vehicle for political change.

Chiefs were custodians of traditional law and custom and were responsible for the day-to-day running of their chiefdom and maintaining law and order. For example, chiefs had their own community police who could arrest a suspect and bring the suspect before an inner council within the chiefdom for a trial. Chiefs were an integral part of society and acted as overseers or guardians of families within the communities and traditionally reported directly to the King. Local custom mandates that chieftaincy is hereditary.

The press reported that some Members of Parliament engaged in fraud, kickbacks and scams, and three sitting Members of Parliament were free on bail pending trial for fraud. The former Speaker of the House of Assembly was alleged to have misappropriated \$8,000 (50,000 emalangeni) while in office and fraud charges were leveled against the Chair of the Swaziland Electricity Board. There were credible reports that unqualified businesses were awarded contracts due to the owners' relationship with government officials.

There is no law permitting public access to government documents, and public documents were difficult to access. For example, few persons were able to obtain copies of the draft constitution while it was being debated by Parliament.

Women generally had full legal rights to participate in the political process; however, in accordance with societal practice, widows in mourning (for periods that can vary from 6 months to 3 years) are prevented from appearing in certain public places and in close proximity to the King, and as a result, can be excluded from voting or running for office. There were 5 women in the 65-member House of Assembly, 10 women in the 30-seat Senate, and 3 female ministers in the Cabinet. Two women served as principal secretaries, the most senior civil service rank in the ministries.

There were 3 members of minorities in the 30-seat Senate. There were no members of minorities in the House of Assembly or in the Cabinet.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally receptive but unresponsive to their views. Human rights groups spoke out on a number of occasions, criticizing the lack of accountability and transparency in the Government. In October, Amnesty International issued a report criticizing the absence of rule of law and making a series of recommendations for the draft constitution. By year's end, the Government had not acted on any of these recommendations.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

In general, the law does not prohibit discrimination based on race, sex, disability, language, or social status and women and mixed race citizens sometimes experienced governmental and societal discrimination. Labor law forbids employers from discriminating on the basis of race, sex, or political affiliation.

Women

Domestic violence against women, particularly wife beating, was common, despite traditional restrictions against this practice.

Women have the right to charge their husbands with assault under both the Western and the traditional legal systems, and urban women frequently did so, usually in extreme cases when intervention by extended family members failed to end such violence. Rural women often had no relief if family intervention did not succeed, because the traditional courts could be unsympathetic to "unruly" or "disobedient" women and were less likely than the modern courts to convict men for spousal abuse. The press reported that a chief threatened a woman with eviction for refusing to wear mourning clothes for her deceased husband.

Rape also was common and regarded by many men as a minor offense. Additionally, a sense of shame and helplessness often inhibited women from reporting such crimes, particularly when incest was involved. In the modern courts, the acquittal rate was high and sentences were generally lenient. On September 18, at the Manzini bus terminal in front of a cheering crowd, bus conductors and taxi drivers raped and sexually assaulted an 18-year-old student because she was wearing a miniskirt. Police arrested three suspects in the case and the suspects remained in custody at year's end.

Prostitution is illegal, and beginning in July police mounted a campaign to enforce the law prohibiting it. Some sex workers, afraid of being arrested, abandoned apartments rented for such purposes. To combat the HIV/AIDS pandemic, government officials encouraged an NGO to distribute condoms in public places, including where prostitutes were known to congregate.

The law provides some protection from sexual harassment, but its provisions were vague and largely ineffective. Several NGOs provided support for victims of abuse or discrimination. Despite the law's requirement for equal pay for equal work, men's average wage rates by skill category usually exceeded those of women.

Women occupy a subordinate role in society. In both civil and traditional marriages, wives are legally treated as minors, although those who married under civil law may be accorded the legal status of adults, if stipulated in a signed prenuptial agreement. A woman generally must have her husband's permission to borrow money, open a bank account, obtain a passport, leave the country, gain access to land, and, in some cases, obtain a job.

The dualistic nature of the legal system complicated the issue of women's rights. Since unwritten law and custom govern traditional marriage, women's rights often were unclear and changed according to where and by whom they were interpreted. Couples often married in both civil and traditional ceremonies, creating problems in determining which set of rules applied to the marriage and to subsequent questions of child custody and inheritance in the event of divorce or death. In traditional marriages, a man may take more than one wife.

In 2002, King Mswati allegedly instructed his agents to take three young women into royal custody while he considered whether to marry them. During 2002 and 2003, the King took 2 of the 3 women to be his 10th and 11th wives. The mother of one of the women sued the monarchy alleging that her daughter was kidnapped by royal emissaries, but she later postponed the suit indefinitely. The third woman was reportedly living with the Queen Mother, but had not been taken as a wife. In August, the King selected a 16-year-old girl as his most recent fiancée.

A man who marries a woman under civil law legally may not have more than one wife, although in practice this restriction sometimes was ignored. Traditional marriages consider children to belong to the father and to his family if the couple divorce. Children born out of wedlock are viewed as belonging to the mother. Under the law, a woman does not pass citizenship automatically to her children. Inheritances are passed through male children only.

Women routinely executed contracts and entered into a variety of transactions in their own names. The Ministry of Home Affairs is responsible for coordinating women's issues, but took no notable actions during the year. Although gender sensitization was not part of the formal school curriculum, some schools organized debates and other mechanisms to address gender issues. The University of Swaziland Senate also had a subcommittee that encouraged students and faculty to hold seminars and workshops on gender issues.

Children

The Government was committed to children's rights and welfare, but the growing number of orphans and vulnerable children (OVC) challenged that commitment. The Government passed a number of laws that directly addressed children's issues. The Government did not provide free, compulsory education for children; the Government paid teachers' salaries while the student paid fees for books and contributed to the building fund. The Government promised to pay for OVC tuition and school fees by November 30, but failed to do so. Supplemental money sometimes must be raised for building maintenance, including teachers' housing. In rural areas, families favor boys over girls if they do not have enough money to send all their children to school. The country had a 70 percent primary school enrollment rate. Children were required to start attending school at the age of 6 years. Most students reached grade 7, the last year of primary school, and many went on to finish grade 10. The public school system ends at grade 12. A government task force continued to educate the public on children's issues.

In general medical care for children was inadequate and characterized by long waits for medical care, poor nursing care in public hospitals, and overcrowded and understaffed hospitals. Most prescription drugs were available in urban facilities, but rural clinics had inadequate supplies of certain drugs.

Child abuse was a serious problem, and the Government did not make specific efforts to end such abuse. Rape of children was

also a serious problem, with news reports of rapes of children 1-year-old and younger. Children convicted of crimes sometimes were caned as punishment. The law prohibits prostitution and child pornography, provides protection to children under 16 years of age from sexual exploitation and sets the age of sexual consent at 16 years of age; however, female children sometimes suffered sexual abuse, including by family members. There were reports that Mozambican and Swazi girls worked as prostitutes in the country (see Section 5, Trafficking). Children, including street children, were increasingly vulnerable to sexual exploitation.

Child labor was a problem (see section 6.d.).

There was a growing number of street children in Mbabane and Manzini. A large and increasing number of HIV/AIDS orphans were cared for by aging relatives or neighbors, or struggled to survive in child-headed households. Some lost their property to adult relatives. The National Emergency Response Committee on HIV and AIDS, a private group partly funded by the Government and by international aid, and other NGOs assisted some AIDS orphans.

With over 10 percent of households headed by children, UNICEF supported school feeding programs, established a number of neighborhood care points and provided nutritional support to children weakened by AIDS.

Trafficking in Persons

The law does not prohibit trafficking in persons, and there were reports of trafficking. Underage Mozambican and Swazi girls reportedly worked as prostitutes in the country. A women's organization in South Africa estimated that 15 Swazi women per month were trafficked into South Africa for purposes of "forced cohabitation" often involving sexual abuse. There is no government agency specifically responsible for combating trafficking.

Persons with Disabilities

There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. There are no laws that mandate accessibility for persons with disabilities to buildings, transportation, or government services; however, government buildings under construction included improvements for those with disabilities, including accessibility ramps.

National/Racial/Ethnic Minorities

Governmental and societal discrimination was practiced widely against nonethnic Swazis, namely white persons and persons of mixed race. Although there were no official statistics, an estimated 2 percent of the population were nonethnic Swazis. Nonethnic Swazis have experienced difficulty in obtaining official documents, including passports (see Section 2.d.). Nonethnic Swazis also suffered from other forms of governmental and societal discrimination such as needing special permits or stamps to buy a car or house, delays in receiving building permits for houses, and difficulties in applying for a bank loan.

Other Societal Abuses and Discrimination

Societal discrimination against homosexuals was strong, and homosexuals often concealed their sexual preferences.

The Government prohibits persons who are HIV positive from joining the military. There is a social stigma associated with being HIV positive, and this discouraged persons from being tested; however, education was slowly eroding the cultural prejudice.

Section 6 Worker Rights

a. The Right of Association

The law provides for the right to form associations, including trade unions, and workers exercised this right in practice; however, the Government continued to harass labor unions. Workers in "essential services" such as the police, may not form unions. Approximately 80 percent of the formal private sector was unionized.

In May, an International Confederation of Federal Trade Unions delegation visited the country to investigate reports that the police and the military could not form an association, violating the ILO convention; however, it had not reported any finding by year's end.

On May 1, at the Labor Day celebration, police and military used video cameras to record meetings of union members.

The law prohibits anti-union discrimination; however, anti-union discrimination continued to be prevalent, and manufacturers continued to refuse to recognize duly elected unions. In the case of unfair dismissal, the court can order reinstatement and compensation for the employee, as well as fine the employer. Union leaders made credible charges that management in various industries dismissed workers for union activity. The allegations of union discrimination were most common in the garment sector.

b. The Right to Organize and Bargain Collectively

The law provides for the right to organize and bargain collectively, and the Government generally respected this right in practice. Collective bargaining was widespread, and several collective bargaining agreements were reached during the year. There are no export processing zones.

The Industrial Relations Act (IRA) does not permit "strikes"; however, it provides that employees who are not engaged in "essential services" have the right to participate in peaceful protest action to promote their socioeconomic interests. The law details the steps to be followed when disputes arise and provides penalties for employers who conduct unauthorized lockouts; however, penalties were not imposed for the lockouts that occurred during the year. The IRA empowers the Government to mediate employment disputes and grievances through the Labor Advisory Board. When disputes arose, the Government often intervened to reduce the chances of a protest action, which may not be called legally until all avenues of negotiation have been exhausted, and a secret ballot of union members has been conducted. The IRA prohibits protest actions in "essential services," which included police and security forces, correctional services, fire fighting, health, and many civil service positions.

The country participated in the 2003 ILO Annual Conference.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children, and the Government generally enforced this prohibition effectively; however, there were reports that such practices occurred (see Section 5, Trafficking). The SFTU cited the 1998 Administrative Order as a form of forced labor, because it reinforced the tradition of residents performing tasks for chiefs without receiving compensation and allowed the chiefs to fine their subjects for failing to carry out the manual labor.

d. Prohibition of Child labor and Minimum Age for Employment

The law prohibits child labor; however, child labor was a problem. The law prohibits the hiring of a child below the age of 15 in an industrial undertaking, except in cases where only family members were employed in the firm, or in technical schools where children were working under the supervision of a teacher or other authorized person. Legislation limits the number of night hours that can be worked on schooldays, and limits children's work hours overall to 6 per day and 33 per week. Employment of children in the formal sector was not common; however, children below the minimum age frequently were employed in the agricultural sector, particularly in the eastern cotton-growing region. Children also were employed as domestic workers, and as herd boys in rural areas. Children were victims of prostitution and trafficking in persons (see Section 5). The Ministry of Labor was responsible for enforcement, but its effectiveness was limited by personnel shortages.

e. Acceptable Conditions of Work

There was a legally mandated sliding scale of minimum wages depending on the type of work performed. The minimum monthly wage for a domestic worker was approximately \$50 (300 emalangeni), for an unskilled worker \$70 (420 emalangeni), and for a skilled worker \$100 (600 emalangeni). These minimum wages generally did not provide a worker and family with a decent standard of living. Wage arrears, particularly in the garment industry, were a problem.

Labor, management, and government representatives have negotiated a maximum 48-hour workweek in the industrial sector except for security guards, who worked up to six 12-hour shifts per week. The law permits all workers 1 day of rest per week. Most workers received a minimum of 12 days' annual leave. The IRA provides for overtime pay. The Labor Commissioner conducted inspections in the formal sector; however, the results of these inspections generally did not result in enforcement of the law. In particular, there were allegations that women who tried to take maternity leave were dismissed, that employers paid employees at casual or probationary wage scales regardless of their position or length of service, and that some supervisors physically abused employees.

The law provides for protection of workers' health and safety. The Government set safety standards for industrial operations, and it encouraged private companies to develop accident prevention programs; however, the Labor Commissioner's office conducted few safety inspections because of staffing deficiencies and an alleged desire not to "scare off foreign investors." Workers had no formal statutory rights to remove themselves from dangerous work places without jeopardizing their continued employment, nor did any collective bargaining agreements address the matter. There were extensive provisions allowing workers to seek redress for alleged wrongful dismissal; these provisions frequently were invoked.